

Remarks for Assembly Committee on Judiciary & Ethics

Regarding AB 373 – Witness Exclusions

By Representative Donald Friske

June 7, 2007

Thank you Chairman Gundrum and Committee members. I appreciate your hearing today and scheduling this bill for your consideration.

Current law (Wis Stat 906.15) allows judges to exclude witnesses from a proceeding so that they cannot hear each other's testimony. Under current statute, judges may remove a lead law enforcement investigator from the courtroom, barring him or her from hearing the defendant's testimony.

Unfortunately, when the lead investigator is not allowed in the courtroom under witness exclusion proceedings, often the person most knowledgeable about the crime and investigation is prohibited from hearing the defendant's testimony. The presence of the lead law enforcement investigator during testimony is necessary to help ensure that the district attorney is fully aware when a witness perjures him or herself.

Under AB 373, a witness exclusion order will not apply in criminal cases to a law enforcement investigator designated by the prosecutor. This bill clarifies that primary investigators for law enforcement agencies that have investigated the crime leading to trial have a concrete statutory permission to remain in the courtroom.

In a court of law, it is reasonable for district attorneys to count on the presence of the chief investigating officer.

In the 2005-2006 session this bill received broad support and passed in the Assembly unanimously on a voice vote. It also passed unanimously in the Senate Committee on Judiciary, Corrections and Privacy. However it was not scheduled in the full Senate before the end of session.